

Surface Mining Reclamation and Enforcement, Interior

§ 870.18

§ 870.16 Production records.

(a) Any person engaging in or conducting a surface coal mining operation shall maintain, on a current basis, records that contain at least the following information:

(1) Tons of coal produced, bought, sold or transferred, amount received per ton, name of person to whom sold or transferred, and the date of each sale or transfer.

(2) Tons of coal used by the operator and date of consumption.

(3) Tons of coal stockpiled or inventoried which are not classified as sold for fee computation purposes under § 870.12.

(4) For in situ coal mining operations, total BTU value of gas produced, the BTU value of a ton of coal in place certified at least semiannually by an independent laboratory, and the amount received for gas sold, transferred, or used.

(b) OSM fee compliance officers and other authorized representatives shall have access to records of any surface coal mining operation for the purpose of determining compliance of that or any other such operation with this part.

(c) Any person engaging in or conducting a surface coal mining operation shall make available any book or record necessary to substantiate the accuracy of reclamation fee reports and payments at reasonable times for inspection and copying by OSM fee compliance officers. If the fee is paid at the maximum rate, the fee compliance officers shall not copy information relative to price. All copied information shall be protected to the extent authorized or required by the Privacy Act and the Freedom of Information Act (5 U.S.C. 552 (a), (b)).

(d) Any persons engaging in or conducting a surface coal mining operation shall maintain books and records for a period of 6 years from the end of the calendar quarter in which the fee was due or paid, whichever is later.

(e)(1) If an operator of a surface coal mining operation fails to maintain or make available the records as required in this section, OSM shall make an estimate of fee liability under this part through use of average production figures based upon the nature and acreage

of the coal mining operation in question, then assess the fee at the amount estimated to be due, plus a 20 percent upward adjustment for possible error.

(2) Following an OSM estimate of fee liability, an operator may request OSM to revise the estimate based upon information provided by the operator. The operator has the burden of demonstrating that the estimate is incorrect by providing documentation acceptable to OSM, and comparable to information required in § 870.16(a).

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*; Pub. L. 97-365, 5 U.S.C. 5514 *et seq.*)

[49 FR 27500, July 5, 1984]

§ 870.17 Filing the OSM-1 Form electronically.

You, the operator, may submit a quarterly electronic OSM-1 Form in place of a quarterly paper OSM-1 Form. Submitting the OSM-1 Form electronically is optional. If you submit your form electronically, you must use a methodology and medium approved by OSM, and do one of the following:

(a) Maintain a properly notarized paper copy of the identical OSM-1 Form for review and approval by OSM's Fee Compliance auditors. (This is needed to comply with the notary requirement in the Act.); or

(b) Submit an electronically signed and dated statement made under penalty of perjury that the information contained in the OSM-1 Form is true and correct.

[66 FR 28636, May 23, 2001]

§ 870.18 General rules for calculating excess moisture.

If you are an operator who mined coal after June 1988, you may deduct the weight of excess moisture in the coal to determine reclamation fees you owe under 30 CFR 870.12(b)(3)(i). Excess moisture is the difference between total moisture and inherent moisture. To calculate excess moisture in HIGH-rank coal, follow § 870.19. To calculate excess moisture in LOW-rank coal, follow § 870.20. Report your calculations on the OSM-1 form, Coal Reclamation Fee Report, for every calendar quarter in which you claim a deduction. Some cautions: